



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

FEB 13 2014

CERTIFIED MAIL 7009 1680 0000 7663 6353
RETURN RECEIPT REQUESTED

Ms. Catherine McCord
Vice President - Environmental Health and Safety
Heritage Crystal-Clean, LLC
2175 Point Boulevard, Suite 375
Elgin, Illinois 60123

REPLY TO THE ATTENTION OF:

Re: Notice of Violation
Compliance Evaluation Inspection
Heritage Crystal-Clean, LLC
4039 West Columbia Avenue
Battle Creek, Michigan 49015
EPA ID No.: MIK979887726

Dear Ms. McCord:

On January 10, 2014, a representative of the U.S. Environmental Protection Agency inspected the Heritage Crystal-Clean, LLC ("HCC") facility located in Battle Creek, Michigan. The purpose of the inspection was to evaluate HCC's compliance with certain provisions of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901 *et seq.*, relating to the generation, treatment and storage of hazardous waste. A copy of the inspection report is enclosed for your reference.

Based on the information provided by HCC personnel, on a review of records, and on the inspector's personal observations while inspecting the Facility, EPA finds that HCC failed to comply with the conditions for an exemption from obtaining a hazardous waste storage facility license. HCC was also in violation of certain additional requirements of the Michigan Administrative Code (MAC) and of the U.S. Code of Federal Regulations (CFR).

HCC does not qualify for the hazardous waste license exemption

1. In order to avoid the need for a hazardous waste license, a large quantity generator of hazardous waste must mark on each container that is being stored the start date of accumulation. See, MAC R. 299.9306(1)(b) [40 CFR § 262.34(a)(2)].

At the time of the inspection, one tote in the 90-day accumulation area was not marked with a start date of accumulation. HCC, therefore, failed to comply with the above-mentioned condition for a license exemption.

2. In order to avoid the need for a hazardous waste license, a large quantity generator of hazardous waste may store waste for 90 days or less. See, MAC R. 299.9306(1) [40 CFR § 262.34(a)].

At the time of the inspection, seven totes of distillation bottoms were stored in the 90-day accumulation area. These totes were marked with start dates of accumulation from 10/4/2013. These totes appeared to have been stored at the time of the inspection for 99 days. HCC, therefore, failed to comply with the above-mentioned condition for a hazardous waste operating license exemption.

3. In order to avoid the need for a hazardous waste license, a large quantity generator of hazardous waste must inspect, at least weekly, the areas where containers holding hazardous waste are stored. See, MAC R. 299.9306(1)(a); 40 CFR part 265, subpart I [40 CFR §§ 262.34(a)(1)(i); 265.174]. This condition is also a requirement for owners and operators of hazardous waste treatment, storage, and disposal facilities (TSDF). A large quantity generator in the State of Michigan must also maintain a record of the inspections. See, MAC R. 299.9306(1)(a)(i).

At the time of the inspection, weekly inspections were being conducted in the 90-day storage area. The record of inspections, however, was missing weeks between 11/11/13 and 11/26/13; between 12/2/13 and 12/16/13; and between 12/16/13 and 1/7/14. HCC, therefore failed to comply with the above-mentioned condition for a hazardous waste operating license exemption and violated the above-mentioned TSDF container management requirement.

4. In order to avoid the need for a hazardous waste license, a large quantity generator of hazardous waste must provide a contingency plan for the facility. This condition for a license exemption is also a requirement of licensed TSDFs. The contingency plan must include, among other things, the following information:
 - A description of arrangements with local police, fire, hospitals, contractors, state and local emergency responders for emergency services. See, MAC R. 299.9306(1)(d); 40 CFR part 265, subpart D [40 CFR §§ 262.34(a)(4); 265.52(c)];
 - A list of all emergency equipment at the facility, which includes the location and a physical description of each item on the list, and a brief outline of its capabilities. See, MAC R. 299.9306(1)(d); 40 CFR part 265, subpart D [40 CFR §§ 262.34(a)(4); 265.52(e)]; and
 - Amended and updated information for the emergency coordinator including the name, address, and phone number (home and office) of the appropriate individual(s). See, MAC R. 299.9306(1)(d); 40 CFR part 265; subpart D [40 CFR 262.34(a)(4); 265.54(d)].

At the time of the inspection, HCC had provided a contingency plan for the facility. The plan included a list of emergency equipment which did not include descriptions and capabilities for each item. Also, the plan did not include arrangements that had been attempted or made with the local emergency responders. Lastly, the emergency coordinator information was listed as Malcolm Hickok. Mr. McDaniel stated that he would be the emergency coordinator for the site. Mr. McDaniel's information was not listed. HCC, therefore, failed to comply with the above-mentioned conditions for a license exemption and violated the above-mentioned TSDF contingency plan requirements.

5. In order to avoid the need for a hazardous waste license exemption, a large quantity generator of hazardous waste must ensure that facility personnel complete a training program which includes instruction on hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed. These personnel must take part in an annual review of this training. This condition for a license exemption is also a requirement of licensed TSDFs. See, MAC R. 299.9306(1)(d); 40 CFR § 265.16 [40 CFR §§ 262.34(a)(4); 265.16(a)(2) and (c)].

At the time of the inspection, hazardous waste training was being offered to employees on an annual basis. Mr. McDaniel noted, however, that contingency plan implementation was not part of the curriculum. HCC, therefore, failed to comply with the above-mentioned condition for a license exemption and violated the above-mentioned TSDF training requirement.

HCC operated a hazardous waste facility without an operating license

6. A generator of hazardous waste who accumulates hazardous waste on-site for more than 90 days, and who fails to comply with the conditions for a license exemption as noted in items 1 through 4 above, is an operator of a hazardous waste storage facility and is required to obtain a hazardous waste license. See, MAC R. 299.9502(1), 299.9508, and 299.9510 [40 CFR §§ 270.1(c), 270.10(a) and (d)].

At this time, EPA is not requiring HCC to apply for a hazardous waste license so long as HCC promptly establishes and/or maintains compliance with the above conditions for a license exemption.

HCC violated generator requirements

7. With the initial shipment of waste to each treatment, storage, or disposal facility, the generator must send a one-time written notice to each treatment storage, or disposal facility receiving the waste, and place a copy in the file. See, MAC R. 299.9311(1) [40 CFR § 268.7(a)(2)].

At the time of the inspection, land disposal restriction forms were not available for review for the hazardous still bottoms generated at HCC, which are manifested off-site to a permitted cement kiln. HCC, therefore, violated the above-mentioned land disposal restriction requirement.

8. According to MAC R. 299.9302 [40 CFR § 262.11], a person who generates a solid waste must determine if that waste is a hazardous waste. According to MAC R. 299.9307(1) [40 CFR § 262.40(c)], a generator must keep records of any test results, waste analyses, or other determinations for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal facility.

At the time of the inspection, HCC had accumulated wastes on-site for which hazardous waste determinations had not yet been made. Two 33-gallon totes of still bottoms were stored in the facility 90-day area and were marked with the words "Hazardous Waste."

According to Mr. McDaniel, however, these totes had never been sampled to determine if they were hazardous, and their generator knowledge for the material was limited. Also at the time of the inspection, a 5-gallon carboy of contaminated diesel fuel and water was being stored on a pallet in the middle of the facility between the truck unloading area and the storage tanks. A waste determination had not been made or documented for this material. HCC, therefore, violated the above-mentioned hazardous waste determination and documentation requirements.

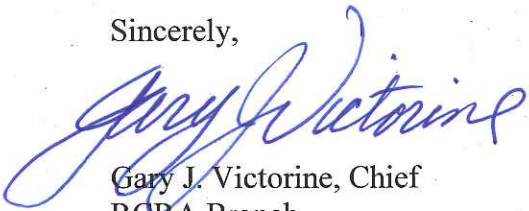
9. A generator of used oil who stores used oil in a container must label the container with the words "Used Oil." See, MAC R. 299.9810(3) [40 CFR § 279.22(c)(1)].

At the time of the inspection, HCC was collecting used oil from an oil skimmer in a 400-gallon tote. The tote was labeled as "Oil" rather than as noted above. HCC, therefore, violated the above-mentioned used oil generator requirement.

At this time, EPA is not requiring HCC to apply for a Michigan hazardous waste license so long as HCC establishes compliance with the conditions for a license exemption as outlined above. Please note, under Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928, EPA may issue an order assessing a civil penalty for any past or current violation, and requiring compliance immediately or within a specified time period. Although this letter is not such an order, we request that you submit a response in writing to this office no later than thirty (30) days after receipt of this letter documenting the actions, if any, which have been taken since the inspection to establish compliance with each of the above conditions and requirements.

You should submit your response to Brenda Whitney, U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, LR-8J, Chicago, Illinois 60604. If you have any questions regarding this letter, please contact Ms. Whitney at (312) 353-4796.

Sincerely,



Gary J. Victorine, Chief
RCRA Branch

Enclosure

cc: Nadine Deak, MDEQ (Deakn@michigan.gov)
Lonnie Lee, MDEQ (Leel@michigan.gov)
John Craig, MDEQ (Craigj@michigan.gov)

